

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO

RUBEN DIAZ MUNGUIA,

Plaintiff,

vs.

CIV 13-0487 KBM

CAROLYN W. COLVIN,  
Acting Commissioner of the  
Social Security Administration,

Defendant.

**ORDER AWARDING ATTORNEY FEES UNDER EAJA**

THIS MATTER comes before the Court on Plaintiff's Motion for Attorney Fees under Equal Access to Justice Act, Defendant having no objection, and the Court expressly finding that an award of fees in the amount requested is reasonable in this case,

**IT IS THEREFORE ORDERED** that attorney fees be, and hereby are, awarded under the Equal Access to Justice Act, 28 U.S.C. § 2412(d), payable to Plaintiff in the amount of \$5,474.14. See *Astrue v. Ratliff*, 130 U.S. 2521 (2010) (EAJA fees are paid to the prevailing party, not the attorney).

**IT IS FURTHER ORDERED** that, if Plaintiff's counsel receives attorney fees under both the EAJA and 42 U.S.C. § 406(b) of the Social Security Act, Plaintiff's counsel shall refund the smaller award to Plaintiff pursuant to *Weakley v. Bowen*, 803 F.2d 575, 580 (10<sup>th</sup> Cir. 1986).



UNITED STATES CHIEF MAGISTRATE JUDGE